

ORIGINAL

United States District Court

for the

DISTRICT OF HAWAII

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JUL 23 2007

at 2 o'clock and 45 min
SUE BEITIA, CLERK

U.S.A. vs. OWEN K. ABAD Docket No. CR 02-00271DAE-01

**AMENDED REQUEST FOR COURSE OF ACTION
(Statement of Alleged Violations of Special Probation)**

COMES NOW CARTER A. LEE, PROBATION OFFICER OF THE COURT, presenting an official report upon the conduct and attitude of OWEN K. ABAD, who was placed on supervision by the Honorable David Alan Ezra, sitting in the Court at Honolulu, Hawaii, on the 11th day of December, 2002, who fixed the period of supervision at 3 years and imposed the general terms and conditions theretofore adopted by the Court and also imposed special conditions and terms as follows:

1. That the defendant provide the Probation Office and the Financial Litigation Unit of the U.S. Attorney's Office access to any requested financial information to include submitting to periodic debtor's examinations as directed by the Probation Office.
2. That the defendant shall participate in a substance abuse program, which may include drug testing at the discretion and direction of the Probation Office.
3. That the defendant is prohibited from possessing any illegal or dangerous weapons.
4. That the defendant is prohibited from incurring credit charges and lines of credit without the approval of the Probation Office.
5. That the defendant shall submit his person, residence, place of employment, or vehicle to a search conducted by the U.S. Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other resident that the premises may be subject to search pursuant to this condition.
6. That restitution of \$18,736 is due immediately to Adam and Rita Cichon, and any remaining balance upon release from confinement be paid during the period of supervision on an installment basis according to the collection policy of the Probation Office but at a rate of not less than 10 percent of his monthly gross income.

The subject's term of supervised release commenced on 11/18/2005.

On 7/6/2006, the Court granted a modification of the subject's conditions of supervised release by amending the Mandatory Condition and adding Special Conditions 6 and 7 as follows:

Mandatory Condition: That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision.

6. That defendant is prohibited from the possession and use of alcohol.
7. That the defendant serve 2 months of home detention with electronic monitoring as arranged by the Probation Office. During this time, the defendant shall remain at his place of residence during nonworking hours and shall not leave his residence without the approval of the Probation Office. The defendant shall wear an electronic monitoring device and follow electronic monitoring procedures pursuant to the Participant's Agreement and shall earn leave as determined by the Probation Office. The defendant also will be responsible for the payment of the electronic monitoring costs as directed by the Probation Office.

On 4/27/2007, the subject appeared before Your Honor for an Order to Show Cause Why Supervision Should Not Be Revoked (OSC) hearing. At the hearing, the subject admitted to engaging in conduct constituting the state offenses of Harassment, Disorderly Conduct, Harassment On a Police Officer, and Resisting Arrest (Violation Nos. 1 to 4); and to the possession and use of alcohol (Violation 5) on 4/12/2007. Your Honor admonished the subject and modified his terms and conditions of release by adding Special Conditions 8, 9, 10, and 11 as follows:

8. That the defendant serve 6 months of home detention with electronic monitoring as arranged by the Probation Office. During this time, the defendant shall remain at his place of residence during non-working hours and shall not leave his residence without the approval of the Probation Office.
9. That the defendant wear an electronic monitoring device and follow electronic monitoring procedures pursuant to the Participant's Agreement and shall earn leave as determined by the Probation Office. .
10. The defendant also will be responsible for the payment of the electronic monitoring costs as directed by the Probation Office.
11. That the defendant notify the Probation Officer with the results of his State Court hearing.

In addition, Your Honor held the proceeding in abeyance pending the final disposition of the subject's state charges. On 7/9/2007, the subject contacted this officer to report the disposition of his state charges as listed below.

Alleged Violation(s) of Supervised Release

That the petition for Request for Course of Action dated 4/18/2007 and filed on 4/20/2007 include the following information:

STATEMENT OF FACTS

On 7/9/2007, the subject contacted the U.S. Probation to report the final disposition of his state charges in accordance with Special Condition #11. On that date, the subject pled no contest to Harassment, Harassment Against a Police Officer, Disorderly Conduct, and Resisting Arrest, in the presence of legal counsel. According to City and County Prosecutor Jason Takamori, the subject entered a plea agreement and was sentenced to a 1-year term of probation for Resisting Arrest (Violation No. 4), and 6-month terms of probation for Harassment, Disorderly Conduct, Harassment On a Police Officer (Violation Nos. 1 to 3), with all terms to run concurrently. In addition, the subject was ordered to submit to an Alcohol Assessment and pay a fine of \$400 plus court fees and costs. Since his last appearance on 4/27/2007, the subject has maintained gainful employment and has been in compliance with the terms and conditions of home detention.

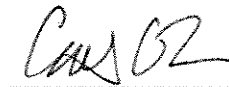
Based on the above, the U.S. Probation Officer recommends that the Request for Course of Action dated 4/18/2007 and filed on 4/20/2007 be amended to include the above-noted additional information.

PRAYING THAT THE COURT WILL ORDER ONE OF THE FOLLOWING COURSES OF ACTION:

- ☒ The Issuance of a Summons and that the subject be brought before the Court to show cause why supervision should not be revoked.
- ☐ Other

I declare under penalty of perjury that the foregoing is true and correct

Executed on 7/13/2007



CARTER A. LEE
U.S. Probation Officer

Approved by:

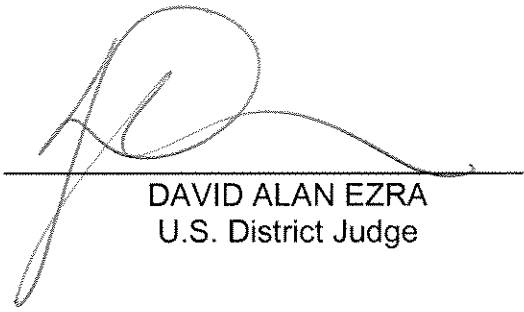


PETER D. YOSHIHARA
Supervising U.S. Probation Officer

ORDER OF COURT

THE COURT ORDERS that the Request for Course of Action dated 4/18/2007 and filed on 4/20/2007 be amended to include the above-noted additional information and that the subject be brought before the Court to show cause why supervision should not be revoked.

Considered and ordered this 13th day of July, 2007, and ordered filed and made a part of the records in the above case.



DAVID ALAN EZRA
U.S. District Judge

NOTICE OF ADDITIONAL CONDITION(S) OF SUPERVISION THAT MAY WARRANT CONSIDERATION

None.